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REMARKS

Entry of the above-noted amendments, reconsideration of the Application, and allowance of all claims pending are respectfully requested. By this amendment, claims 1, 2, 10, 21 and 25 are amended. These amendments to the claims constitute a bona fide attempt by Applicant to advance prosecution of the Application and obtain allowance of the pending claims, and are in no way meant to acquiesce to the substance of the rejections. Support for the amendments can be found throughout the Application (e.g., ¶ 18, 22-24, 34-36, 41, 45, and 50), drawings, and claims and thus, no new matter has been added. Claims 1-25 are pending.

Claim Rejections - 35 U.S.C. § 101:

Claim 25 is rejected under 35 U.S.C. §101 on the basis that the claimed invention is purportedly directed to non-statutory subject matter. This rejection is respectfully traversed.

Claim 25 is directed to a "computer readable medium having a program. . . ." The Office Action rejects claim 25 under § 101 under the reasoning that, "[a]s disclosed in the specifications, the "computer-readable medium" is defined as a signal . . . . A signal is not tangibly embodied." (Office Action of 3/09/2007, at 2 (emphasis in original).) Applicant's specification discloses a "computer-readable medium" as a tangible medium, not as an abstract signal.

For example, the specification addresses the term "computer-readable medium" at paragraph 52:

In the context of this specification, a "computer-readable medium" can be any means that can store, communicate, propagate or transport the data associated with, used by or in connection with the instruction execution system, apparatus, and/or device. The computer-readable medium can be, for example, but not limited to, an electronic, magnetic, optical, electromagnetic, infrared, or semiconductor system, apparatus, device or propagation medium now known or later developed.

(Emphasis added). Thus, a "computer-readable medium" is described as a means, system, apparatus, device or propagation medium. Each of these clearly permits a physical manifestation of a signal, but not a signal standing alone. In addition, Applicant has amended claim 25 to recite "tangible" in the language "computer readable tangible medium."

The Office Action further objects to claim 25 under § 101 on the basis that the computer readable medium, as claimed, "does not define structural and functional interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized." Applicant has accepted the Office Action's suggestion to add the language "that when executed by an image capturing device would" in claim 25, without

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acquiescing in any characterization that claim 25 as originally filed was directed to non-statutory subject matter.

Withdrawal of the § 101 rejections is therefore respectfully requested.

Claim Rejections – 35 U.S.C. § 102:

Claims 1, 2-4, 8-14, 17-19 and 21-25 are rejected under 35 U.S.C. § 102(b) as being purportedly anticipated by *Mukai et al.*, U.S. Patent No. 5,557,358. Applicant respectfully traverses the rejections.

Applicant submits that the Office Action's citation to the applied reference does not teach or suggest one or more elements of the claimed invention. A careful reading of the Examiner's citations to *Mukai et al.* fails to set forth a sustainable basis that the reference teaches, for example, a processor configured to analyze at least one characteristic of the preview image, determine a nature of the preview image based on the analysis of at least one characteristic of the preview image, and select the image composition template based upon the nature of the preview image, as recited in Applicant's independent claim 1.

For example, as purportedly teaching the use of "at least one image composition template," the Office Action relies upon disclosure in *Mukai et al.* of a horizontal or vertical reference line illustrated in Fig. 15C, a "pattern" illustrated in Figs. 17A-17C and a "moving subject pattern" of Fig. 19A. Without addressing whether the cited aspects of *Mukai et al.* disclose "image composition templates" as claimed, *Mukai et al.* clearly teaches a system in which the reference line, pattern determining and moving subject determining are user-selected modes. (See *Mukai et al.*, Fig. 13 (steps 254, 258 and 262); col. 6 lines 30-42 ("determination of the mode set by the user is made based on the condition of the mode setting button 17 . . . . When the user has not set any of these modes, the pixel data read at step #252 are directly transmitted to the EVF, and a normal display is provided at step #270."))

Thus, even if *Mukai et al.* were to teach at least one image composition template corresponding to a predefined subject matter (which Applicant does not concede), it is clear that the image composition template is not selected "based upon the nature of the preview image," as claimed, but is rather manually selected by the user. Thus, Applicant respectfully submits that *Mukai et al.* does not disclose, or even suggest, the invention of Applicant's claim 1.

Independent claim 10 also stands rejected as being purportedly anticipated by *Mukai et al.* Claim 10 is a method claim which, as amended, requires the steps of automatically determining a nature of the preview image by the digital camera based upon an analyzed

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characteristic of the preview image, and automatically selecting an image composition template by the digital camera corresponding to the determined nature of the preview image. As described above, to the extent that *Mukai et al.* involves an image composition template at all, the template is disclosed as being selected by the user, and not automatically determined by the digital camera. Thus, *Mukai et al.* does not disclose or suggest the limitations of claim 10.

Independent claim 21 also stands rejected as being purportedly anticipated by *Mukai et al.* Claim 21 is directed to a system for displaying image composition templates with preview images, having means for automatically determining a nature of the preview image based upon an analyzed characteristic, and means for selecting an image composition template corresponding to the determined nature of the preview image. By contrast, as explained in detail above, *Mukai et al.* requires manual selection by a user, rather than automated selection of a template based upon analysis of a preview image.

Independent claim 25 also stands rejected as being purportedly anticipated by *Mukai et al.* Claim 25 is directed to a computer readable medium having a program which, *inter alia*, determines a nature of a preview image based upon an analyzed characteristic, and selects an image composition template corresponding to the determined nature of the preview image. As explained above, *Mukai et al.* neither discloses nor suggests a computer readable medium having a program for implementing the claimed operation.

For at least the reasons described above, Applicant respectfully submits that each of independent claims 1, 10, 21 and 25 should be deemed patentable over *Mukai et al.* Moreover, each of Applicant's remaining claims ultimately depends from claim 1, 10 or 21. Accordingly, each of those claims should be deemed patentable as dependent upon a patentable base claim.

Withdrawal of the § 102 rejections is therefore respectfully requested.

Claim Rejections - 35 U.S.C. § 103:

Claims 5, 7 and 20 stand rejected under 35 U.S.C. §103(a) as being purportedly unpatentable over *Mukai et al.*, in view of *Soga et al.*, U.S. Patent No. 6,806,906 B1. While Applicant does not acquiesce in the modification or combination of the Examiner's citations to the applied references, even so modified or combined, Applicant respectfully submits that the Examiner's citations to the applied references do not teach or suggest one or more elements of the claimed invention, nor are the missing elements well-known in the art, or mere predictable uses or variations of the cited prior art.

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For example, claim 5 requires that the system further comprises “a menu displayed on the display, the menu configured to select one of the **plurality of image composition templates associated with the nature of the preview image.**” (Emphasis added.) Thus, in the system of claim 5, the user can select from amongst a plurality of templates, all of which have been determined to be associated with the nature of the preview image, which is analyzed by the processor. As discussed above in connection with claim 1, *Mukai et al.* does not at all disclose or suggest the selection of one or more image composition templates that are associated with an analyzed preview image. To the contrary, while the Office Action contends that *Soga et al.* discloses a menu through which a composition template can be selected, like *Mukai et al.*, *Soga et al.* also specifically requires that a user manually scroll through and select an appropriate composition template. (See, e.g., *Soga et al.* at col. 7 lines 9-12 (“If the left or right button of the up, down, left, right button 5 is pressed, another assistance frame instead of the intersection-of-thirds assistance frame 31 is displayed on the display screen of the liquid crystal display 9.”).) *Soga et al.* does not at all disclose or suggest analysis of a preview image and/or selection of a composition template by a program or processor.

For at least the reasons presented above, Applicant submits that claims 7 and 20 are also neither anticipated by, nor obvious in view of, the art of record.

Claims 6, 15 and 16 stand rejected as being purportedly obvious in view of *Mukai et al.* and *Windle*, U.S. Patent No. 6,606,117 B1. Claims 6, 15 and 16 are each ultimately dependent upon either claim 1 or claim 10. As such, they involve the above described analysis to determine the nature of a preview image, as well as selection of a composition template based on the determined nature of the preview image. However, as with *Mukai et al.* and *Soga et al.*, discussed above, *Windle* is also directed to the manual selection of a composition template by the user. (See, e.g., *Windle*, col. 4 lines 38-42 (“In use, the processing unit 104, in conjunction with the memory storage unit 103 and/or the ROM 108, provides the user with a selection of currently available templates via the user interface 105. The user initially uses selection buttons (not shown) to select at least one of the templates.” (emphasis added)); *Windle*, col. 6 lines 9-17 (“initially pressing the mode template button 204 causes a list of available templates 301 to be displayed on the LCD 203. . . . A selector button is used to navigate through the available options, and to select the desired template.”).) Thus, Applicant submits that the prior art upon which the Office Action relies does not disclose, suggest or make obvious, alone or in any combination, the limitations of claims 6, 15 and 16.

Withdrawal of the § 103 rejections is therefore respectfully requested.

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Conclusion

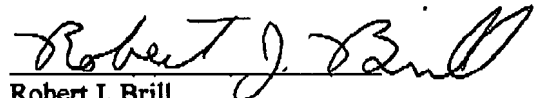
In light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-25.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 C.F.R. 1.25. Additionally charge any fees to Deposit Account 08-2025 under 37 C.F.R. §§ 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 08-2025. While Applicant believes that no additional fees are necessary as a result of the foregoing amendments, should any fees be due, Applicant hereby authorizes charging of Deposit Account No. 08-2025.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



Robert J. Brill  
Registration No. 36,760  
Direct Dial 312-876-2109  
rjbrill@woodphillips.com

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**P.O. ADDRESS:**  
Hewlett Packard Company  
PO Box 272400, 3404 E. Harmony Rd.  
Intellectual Property Administration  
Fort Collins, CO 80527-2400

Wood Phillips  
500 W. Madison Street, Suite 3800  
Chicago, IL 60661-2562  
312-876-1800